



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0385; FRL-9979-80-Region 4]

Air Plan Approval;

SC: Multiple Revisions to Air Pollution Control Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve changes to the South Carolina State Implementation Plan (SIP) to revise miscellaneous rules covering air pollution control standards. EPA is approving portions of SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on the following dates: October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, July 27, 2016, and November 4, 2016. These actions are being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule will be effective [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0385. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e.,

Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can also be reached via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, July 27, 2016, and November 4, 2016, SC DHEC submitted SIP revisions to EPA for approval that involve changes to South Carolina's SIP regulations to make administrative and clarifying amendments, revise regulations, and correct typographical errors. These SIP submittals make changes to several air quality rules in the South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.). The

changes EPA is approving into the SIP in this action modify portions of Regulation 61-62.5, Standard No. 1 - *Emissions From Fuel Burning Operations* and Regulation 61-62.5, Standard No. 4 - *Emissions From Process Industries*. EPA is not acting on other changes that are included in these submittals. EPA will act on those changes in separate actions.

II. Analysis of South Carolina's Submittals

A. Regulation 61-62.5, Standard No. 1 - *Emissions from Fuel Burning Operations*

South Carolina is amending multiple sections at Regulation 61-62.5, Standard No. 1 - *Emissions from Fuel Burning Operations*. The August 8, 2014, submittal makes the following changes: 1) clarifies sulfur dioxide (SO₂) maximum allowable discharge limits at Section III – *Sulfur Dioxide Emissions*; and 2) makes administrative and clarifying edits throughout Standard No. 1. The revision in Section III –*Sulfur Dioxide Emissions* streamlines the requirement by setting a maximum SO₂ limit of 2.3 pounds per million British thermal units (lb/MMBtu) from fuel burning operations. The current approved Standard sets two SO₂ limits, 2.3 lb/MMBtu or 3.5 lb/MMBtu across various classification categories. Therefore, this revision would streamline the rule to the lower of the two limits allowed for such sources. Lastly, this submittal makes administrative and clarifying edits in Section I –*Visible Emissions*,¹ Section II –*Particulate Matter Emissions*, Section III –*Sulfur Dioxide Emissions*, Section IV –*Opacity Monitoring Requirements*,² and Section VI –*Periodic Testing*.

¹ EPA is taking final action to approve the revisions in Section I, with a state effective date of June 27, 2014. EPA has two revisions pertaining to subparagraph C “Special Provisions” submitted by the State on July 18, 2011, and August 12, 2015, with state effective dates of May 27, 2011 and June 26, 2015, respectively, and will address these changes in a separate action.

² EPA is taking final action to approve the revisions in Section IV, with the exception of subparagraph B “Continuous Opacity Monitor Reporting Requirements,” submitted by the State on August 8, 2014 with a state effective date of June 27, 2014. EPA will address revisions in subparagraph B, also in an August 12, 2015, submittal, in a separate action.

The November 4, 2016, submittal makes typographical corrections under Section IV – *Opacity Reporting Requirements*.³ EPA has reviewed the aforementioned changes to South Carolina’s Regulation 61-62.5, Standard No. 1 and is approving the changes into the SIP pursuant to CAA section 110.

B. Regulation 61-62.5, Standard No. 4 - *Emissions from Process Industries*

South Carolina is amending multiple sections at Regulation 61-62.5, Standard No. 4 - *Emissions from Process Industries*. The October 1, 2007, submittal removes Section IV – *Portland Cement Manufacturing* from the SIP. This rule contains particulate matter (PM) emission limits for cement kilns with a production rate of up to 120 tons per hour and it establishes a 20 percent allowable stack opacity limit for certain components of Portland cement plants. SC DHEC states that there are no Portland cement plants operating at 120 tons per hour or less in the State because it is not economically feasible. SC DHEC asserts that removing this rule would not create a relaxation as there are no applicable sources subject to this regulation. Additionally, should such a source start operation, it would be subject to more stringent PM emissions limits in New Source Performance Standards (NSPS) subpart F (*Standards of Performance for Portland Cement Plants*).

The July 18, 2011, submittal amends Section V – *Cotton Gins* by removing established specific emission limits based on production rate (output) of bales of cotton per hour and replacing that with specific, measurable performance requirements and operating standards.⁴ SC DHEC considered CAA section 110(l) in making this change. SC DEHC explains that the rule

³ The November 4, 2016, submittal with a state effective date of September 23, 2016, would supersede the 2014 revision with the exception of subparagraph B as mentioned in footnote #2.

⁴ SC DHEC’s July 18, 2011 submittal makes a change to Section XII, subparagraph B regarding Total Reduced Solids (TRS). The August 8, 2014, submittal would supersede the 2011 revision.

development is based on best management practices outlined in the United States Department of Agriculture's *Cotton Ginners Handbook*, staff experience with effective emission reduction techniques, the review of other state regulations on cotton gins, and several discussions with the affected industry. The new rule assures a greater degree of control of these emissions than that which would result from the existing process weight rate curve and also allows the State to more effectively determine compliance. The revised rule requires enforceable control of emissions from specific point sources in the ginning process rather than an allowable emission rate, and it establishes requirements to minimize fugitive emissions from various sources at cotton ginning facilities. The revised rule also sets applicable requirements for good housekeeping practices in the gin yard, weekly monitoring of control efficiency, recordkeeping, and reporting. The revised regulation will provide for improved emissions control through practicably enforceable control of emissions, use of state of the art pollution control devices, and minimization of fugitive emissions. The June 17, 2013, submittal makes a subsequent typographical correction to Section V.

The August 8, 2014, submittal makes the following changes: 1) removes a PM emissions limit at Section III –*Kraft Pulp and Paper Manufacturing*; 2) revises the frequency required for reporting excess emissions at Section XI –*Total Reduced Sulfur Emissions of Kraft Pulp Mills*; 3) removes the periodic testing requirement for TRS at Section XII –*Periodic Testing*; and 4) makes administrative and clarifying edits throughout Standard No. 4. At Section III, the submittal removes the table column “Maximum Allowable Emissions of PM in pounds/equivalent Ton of Air Dried, Unbleached Pulp Produced” and retains the “Maximum Allowable Stack Opacity.” SC DEHC asserts that this will not result in a relaxation of emission limits because the subject

sources are covered under more stringent PM limits under the NESHAP (subpart S - *National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry*).

Additionally, the word “opacity” replaces “rate of emissions.”

At Section XI, the August 8, 2014, submittal changes the required excess emissions reporting frequency in subparagraph D.3. from quarterly to semi-annual. SC DHEC considered CAA sections 110(l) and 193 in making the change and asserts changing reporting from quarterly to semi-annual will not affect the level of emissions or compromise the national ambient air quality standards. SC DHEC cites to several Federal and state regulations that address excess emissions reporting, including NSPS subpart BB *Standards of Performance for Kraft Pulp Mills*; South Carolina Regulation 61-62.5, Standard No. 4 Section XI(D)(3) *Total Reduced Sulfur Emissions of Kraft Pulp Mills*; South Carolina Regulations 61-62.1, Section II(J)(2) *Permit Requirements*; and South Carolina Regulation 61-62.70 *Title V Operating Permit Program*.

At Section XII, the August 8, 2014, submittal removes the periodic testing requirement for TRS. SC DHEC states that most sources are required to test under NSPS or NESHAP rules. The few sources that are not required to test have enough historical test data to develop an allowable operating range which can be handled during the permitting process. Additionally, the S.C. Pollution Control Act (48-1-50, Powers of the Department) makes provision for SC DHEC to ask for a source test and permits are often drafted with language allowing SC DEHC to ask for source tests. Therefore, the requirements will be no less stringent than what is allowed through current regulatory and permitting authority to review testing requirements.

Lastly, the August 8, 2014, submittal makes minor typographical, renumbering, and clarifying edits to Standard No. 4 in Section II –*Sulfuric Acid Manufacturing*, Section V –*Cotton Gins*, Section XI –*Total Reduced Sulfur Emissions of Kraft Pulp Mills*, and Section XII –*Periodic Testing*.

The July 27, 2016, submittal changes Section VIII –*Other Manufacturing* by excluding Kraft Pulp and Paper Manufacturing facilities. This Section sets PM emission limits for source categories not specified elsewhere in Standard No. 4. The change to exclude Kraft Pulp and Paper Manufacturing facilities aligns with the August 8, 2014, revision, as previously discussed in this notice. The submittal also makes minor typographical, renumbering, and clarifying edits to Section XII –*Periodic Testing*.

EPA has reviewed the aforementioned changes to South Carolina’s Regulation 61-62.5, Standard No. 4 and is approving the revisions into the SIP pursuant to CAA section 110, and where applicable CAA section 193.

III. Response to Comments

EPA previously proposed to approve these changes, and others, to the South Carolina SIP on August 16, 2017 (82 FR 38874) along with a direct final rule published the same date (82 FR 38828). The proposed rule stated that if EPA received adverse comment on the direct final rule, the direct final rule would be withdrawn and all public comments received would be addressed in a subsequent final rule based on the proposed rule. EPA received one adverse comment from a Commenter regarding the portion of the SIP submittals that EPA is addressing in this action, specifically regarding revision of Regulation 61-62.5, Standard No. 4 - *Emissions from Process Industries*, Section IV –*Portland Cement Manufacturing*. EPA accordingly withdrew those

portions of the direct final rule on October 13, 2017 (82 FR 47640).⁵ EPA has considered the adverse comment received and is now approving the change to Regulation 61-62.5, Section IV.

Comment: The Commenter states EPA needs to ensure that no mothballed facilities would be able to restart under the new standard. The Commenter also states that mothballed facilities may still maintain operating permits and may restart under these permits without becoming new sources and subject to NSPS requirements.

Response: EPA notes that operating permits are not issued in perpetuity. A source must renew the permit to continue operations and is required to operate within the emissions limitations established in the permit. If operations resume at a source that has ceased operations for more than two⁶ years, that source is subject to new source requirements, regardless of whether that source had previously indicated that it would cease operations permanently. Additionally, SC DHEC provided a letter on February 22, 2018,⁷ stating there are no mothballed sources below the 120 tons per hour level anywhere in the State.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina Regulation 61-62.5, Standard No. 1 Section I –*Visible Emissions*, Section II – *Particulate Matter Emissions*, Section III –*Sulfur Dioxide Emissions*, Section VI –*Periodic Testing*, state effective June 27, 2014, and Section IV –*Opacity Monitoring Requirements* state effective September 23, 2016, which makes administrative and clarifying changes for

⁵ The Commenter also made a comment on Regulation 61-62.5, Standard No. 1 - *Emissions From Fuel Burning Operations*, subparagraph C of Section I – *Visible Emissions*. EPA will address that in a separate action.

⁶ U.S. EPA Applicability Determination Index for NSPS on August 29, 1990, for Florida Portland Cement. Document is available in the Docket.

⁷ Letter is located in the Federal Docket.

consistency, removes log reporting requirements, revises monitoring requirements, and Regulation 61-62.5, Standard No. 4 Section II –*Sulfuric Acid Manufacturing*, Section III –*Kraft Pulp and Paper Manufacturing*, Section V –*Cotton Gins*, Section XI –*Total Reduced Sulfur Emissions of Kraft Pulp Mills* state effective June 27, 2014, and Section VIII –*Other Manufacturing*, Section XII –*Periodic Testing* state effective June 24, 2016, which makes administrative and clarifying changes for consistency, removes specific emission rates, and reporting requirements. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated in the next update to the SIP compilation.⁸

V. Final Action

This is a final action based on the proposed rule (82 FR 38874). For the reasons discussed above, EPA is approving the aforementioned changes to the South Carolina SIP, submitted on October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, July 27, 2016, and November 4, 2016, because they are consistent with the CAA and federal regulations.

VI. Statutory and Executive Order Reviews

⁸ 62 FR 27968 (May 22, 1997).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 12, 2018.

Onis “Trey” Glenn III
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP--South Carolina

2. Section 52.2120, paragraph (c) is amended by:

- a. Revising the entries under Regulation No. 62.5, *Standard No. 1*, for “Section I,” “Section II,” “Section III,” “Section IV,” and “Section VI;”
- b. Revising the entries under Regulation No. 62.5, *Standard No. 4*, for “Section II,” “Section III,” “Section V,” “Section VIII,” “Section XI,” and “Section XII”; and
- c. Removing the entry under Regulation No. 62.5, *Standard No. 4*, for “Section IV”

The revisions read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

Air Pollution Control Regulations for South Carolina

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Regulation No. 62.5	Air Pollution Control Standards			
Standard No. 1	Emissions from Fuel Burning Operations			

Section I	Visible Emissions	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Except for subparagraph C “Special Provisions,” including those versions submitted by the State on July 18, 2011 and August 12, 2015. Therefore, subparagraph C retains the version that was state effective October 26, 2001.
Section II	Particulate Matter Emissions	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Section III	Sulfur Dioxide Emissions	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

Section IV	Opacity Monitoring Requirements	9/23/2016	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Except subparagraph B “Continuous Opacity Monitor Reporting Requirements,” including those versions submitted by the State on August 8, 2014 and August 12, 2015. Therefore, subparagraph B retains the version that was state effective September 28, 2012.
**	**	*	*	*
Section VI	Periodic Testing	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
**	**	*	*	*
Standard No. 4	Emissions From Process Industries			
**	**	*	*	*
Section II	Sulfuric Acid Manufacturing	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

Section III	Kraft Pulp and Paper Manufacturing Plants	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Section V	Cotton Gins	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
**	**	*	*	*
Section VIII	Other Manufacturing	6/24/2016	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
**	**	*	*	*
Section XI	Total Reduced Sulfur Emissions of Kraft Pulp Mills	6/27/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Section XII	Periodic Testing	6/24/2016	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
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[FR Doc. 2018-13446 Filed: 6/22/2018 8:45 am; Publication Date: 6/25/2018]